

REMARKS/ARGUMENTS

Favorable consideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-6 and 8-20 are pending in the application, with Claims 1 and 18-19 amended and Claim 7 cancelled by the present amendment.

In the outstanding Office Action, Claims 1-3, 5, 8-14, 17-19 were rejected under 35 U.S.C. § 102(e) as being clearly anticipated by Giger et al. (U.S. 2001/0043729 A1, hereinafter Giger); Claims 4 and 6 were rejected under 35 U.S.C § 103(a) as being unpatentable over Giger in view of Komiya et al. (U.S. Patent No. 5,754,676, hereinafter Komiya); Claims 15 and 16 were rejected under 35 U.S.C § 103(a) as being unpatentable over Giger in view of Guha (U.S. Patent No. 5,373,452); and Claim 7 was rejected under 35 U.S.C § 103(a) as being unpatentable over Giger in view of Cabib et al. (U.S. Patent No. 5,784,162, hereinafter Cabib).

Claim 1 is amended to recite the features of original Claim 7. Claims 18 and 19 are amended to maintain antecedent basis. No new matter is added.

Because Claim 1 is amended to recite the features of Claim 7, Applicants submit the rejections under 35 U.S.C. § 102(e) is moot.

Applicants acknowledge with appreciation the telephone interview between the Examiner and Applicants' representative on May 27, 2004. During the interview the Examiner agreed that filing an affidavit that Arch Development Corporation is wholly owned and managed by the University of Chicago will establish that the Giger reference is an improper basis of an obviousness-type rejection in accordance with 35 U.S.C. 103(c) (i.e., because the U.S. patent application corresponding to the cited Giger reference and the pending application are commonly assigned and were commonly owned at the time the

claimed inventions were made). Therefore, Applicants signed affidavit regarding Arch Development Corporation and University of Chicago is attached herewith.

Regarding a potential provisional obviousness double-patenting rejection of Applicants' pending Claim 1 in view of Giger, Applicants have filed a terminal disclaimer disclaiming the terminal part of any patent granted on the present application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173 of any patent issuing from application Serial No. 09/773,636.

The present amendment is submitted in accordance with 37 C.F.R. § 1.116 which permits amendments placing the claims in better form for consideration on appeal after final rejection. Since the present amendment clarifies the claimed invention, it is respectfully requested that 37 C.F.R. § 1.116 be liberally construed and the present amendment be entered.

Accordingly, in view of the present amendment and in light of the previous discussion, Applicants respectfully submit that the present application is in condition for allowance and respectfully request an early and favorable action to that effect.

Respectfully submitted,

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